

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
8

9 JOHN STEVEN OLAUSEN,)
10 Petitioner,) 3:10-cv-0388-LRH-RAM
11 vs.)
12 JAMES BENEDETTI, *et al*,)
13 Respondents.)
14

ORDER

15 Petitioner, a state prisoner, is proceeding *pro se* in this habeas corpus petition pursuant to 28
16 U.S.C. § 2254. As previously explained in this court's order of January 14, 2010, (docket #18) in
17 *John Steven Olausen v. James Benedetti*, 3:08-cv-00527-LRH-RAM, petitioner has filed multiple
18 prior habeas corpus actions in this court, challenging the same conviction. *See* 3:01-cv-00499-ECR-
19 RAM, 3:05-cv-00631-LRH-RAM, 3:06-cv-00069-PMP-VPC, and 3:06-cv-00257-LRH-VPC. The
20 present petition challenges the same conviction previously challenged in these earlier petitions and
21 raises legal issues previously addressed. The court therefore finds that this is a second or successive
22 petition.

23 Under AEDPA's "gatekeeping" provisions, an applicant seeking to file a second or successive
24 petition must obtain from the appropriate court of appeals an order authorizing the district court to
25 consider the application. A court of appeals may grant such an order only if:

26 (A) the applicant shows that the claim relies on a new rule of constitutional law made
27 retroactive to cases on collateral review by the Supreme Court, that was previously
unavailable; or
28 (B)(I) the factual predicate for the claim could not have been discovered

1 previously through the exercise of due diligence; and

2 (ii) the facts underlying the claim, if proven and viewed in the light of the
3 evidence as a whole, would be sufficient to establish by clear and
4 convincing evidence that, but for constitutional error, no reasonable
fact finder would have found the applicant guilty of the underlying
offense.

5 28 U.S.C. § 2244(b)(2)(A)-(B). Petitioner has not provided the court with an order authorizing this
6 court to consider the present petition. Accordingly, the court will not do so.

7 **IT IS THEREFORE ORDERED** that the Clerk of the Court shall **FILE** the petition.

8 (Docket #1-1.)

9 **IT IS FURTHER ORDERED** that this petition for writ of habeas corpus is **DISMISSED**
10 without prejudice as an unauthorized second or successive petition. The Clerk of the Court is
11 directed to enter judgment for respondents and close this case.

12
13 DATED this 10th day of August, 2010.



14
15
16 LARRY R. HICKS
17 UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25
26
27
28